

JS 44 (Rev. 10/20)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

RICHARD MATHER

(b) County of Residence of First Listed Plaintiff **BUCKS**  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Cooper Schall & Levy, 2000 Market Street, Suite 1400,  
Philadelphia, PA 19103 (215)561-3313

**DEFENDANTS**

COSTCO WHOLESALE CORP., ET AL.

County of Residence of First Listed Defendant **KING**  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                        |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. §1332

Brief description of cause:  
Trip and Fall

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.P.

**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/21/2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**RICHARD MATHER**

4 Jacqueline Circle

Richboro, PA 18954

**Plaintiff**

**v.**

**COSTCO WHOLESALE CORP.**

c/o CT Corporation

116 Pine Street, Suite 320

Harrisburg, PA 17101,

**JOHN DOES (1-10)**

(fictitious names for the owners, possessors, inspectors, managers, controllers, operators, and maintainers of the subject property, real and personal),

**JANE DOE 1-10**

(fictitious names for the owners, possessors, inspectors, managers, controllers, operators, and maintainers of the subject property, real and personal),

**And**

**XYZ CORPORATION 1-10**

(fictitious names for the owners, possessors, inspectors, managers, controllers, operators, and maintainers of the subject property, real and personal)

**Defendants**

**CIVIL ACTION**

**NO.**

**CIVIL ACTION COMPLAINT**

**I. PARTIES**

1. Plaintiff, Richard Mather, is an adult individual, residing at the above-captioned address.

2. Defendant, Costco Wholesale Corporation, is a business corporation, incorporated in the State of Washington, and existing, operating, and doing business

under the laws of the Commonwealth of Pennsylvania, with a registered agent located at the above-captioned address.

3. Defendant, John Doe (1-10), are unidentified adult individuals who owned, possessed, inspected, managed, controlled, operated, and maintained the Costco Wholesale business located at 100 Veterans Way, Warminster, PA 18974.

4. Defendant, Jane Doe (1-10), are unidentified adult individuals who owned, possessed, inspected, managed, controlled, operated, and maintained the Costco Wholesale business located at 100 Veterans Way, Warminster, PA 18974.

5. Defendant, XYZ Corporation (1-10) are unidentified corporations who owned, possessed, inspected, managed, controlled, operated, and maintained the Costco Wholesale business located at 100 Veterans Way, Warminster, PA 18974.

## **II. JURISDICTION AND VENUE**

6. Pursuant to 28 U.S.C. §1332, this Court has jurisdiction over this case because it is a lawsuit between parties of diverse citizenship and the amount in controversy exceeds \$75,000.

7. Venue is proper in the United States District Court for the Eastern District of Pennsylvania, under 28 U.S.C. Section 1391, as Bucks County is the county where the accident occurred and/or where the parties reside and/or do business.

## **III. FACTS**

8. On or about August 30, 2019 and prior thereto, Defendants owned, possessed, inspected, managed, controlled, operated and/or maintained the Costco Wholesale business located at 100 Veterans Way, Warminster, PA 18974.

9. At all times material hereto, Defendants acted by and through their agents

(actual, apparent or ostensible), servants, workmen, employees and/or officers, all of whom were then and there acting within the course and scope of their duties, agency, employment or authority for Defendants.

10. On or about August 30, 2019, Plaintiff, was a business invitee lawfully on Defendants' property.

11. On or about August 30, 2019, Plaintiff was returning his shopping cart from the parking lot area to the designated return location at the entrance of the Costco building when his foot came into contact with a depression of the sidewalk, known as the "truncated dome" (*See Exhibit A*) and was caused to lose his balance, tripping, stumbling and falling sustaining serious and permanent injuries more fully set forth herein.

12. At all times relevant hereto, Defendants knew or should have known that the "truncated dome" located on the sidewalk was cracked, raised, defective, and dangerous, and posed a serious risk of harm to persons such as Plaintiff, and other patrons to the business establishment.

13. At all times relevant hereto, Plaintiff, relied upon the fact that Defendants would maintain their property and sidewalks in a safe manner and Defendants' failure to maintain the property and sidewalks as aforesaid increased the risk of harm to the Plaintiff.

14. This accident was caused solely from the negligence, carelessness, and/or recklessness of Defendants and was in no manner whatsoever due to any act of negligence on the part of Plaintiff.

**COUNT I - NEGLIGENCE**  
**MATHER v. DEFENDANTS**

15. Plaintiff hereby incorporates Paragraphs 1-14 as if same were set forth at

length herein.

16. The aforesaid accident was caused by the negligence, carelessness and/or recklessness of Defendants, acting as aforesaid, which negligence, carelessness and/or recklessness consisted, inter alia, of the following:

- (a) failing to repair the defective condition as described above;
- (b) failing to properly, completely and thoroughly inspect the property;
- (c) failing to promptly and carefully post warning signs, install barricades and/or post notices to warn individuals of the defective condition;
- (d) allowing patrons to walk on the defective condition;
- (e) failing to remedy the condition to eliminate any danger to patrons and other individuals;
- (f) allowing the said hazardous and dangerous condition to exist once created;
- (g) failing to make timely and proper repairs upon said premises;
- (h) failing to inspect and failing to establish a policy of inspection;
- (i) failing to construct and repair the defective condition;
- (j) failing to hire a contractor and/or repair person to fix the defective condition;
- (k) otherwise acting in a manner that was negligent, careless and reckless at law and in fact all of which a reasonable person would have know or in the exercise of reasonable care should have known caused an unreasonable risk of harm to the public and more particularly to the plaintiff herein;
- (l) violating applicable ordinances and property maintenance codes for the City of Warminster, County of Bucks, and the Commonwealth of Pennsylvania as well as such other statutes and case law governing the maintenance of property; *and*
- (m) such other acts of negligence, carelessness, and/or recklessness as may be adduced through discovery or at trial.

17. As the direct and proximate result of Defendants' negligence, Plaintiff sustained severe and multiple injuries, both internal and external, to and about his body, and extremities and/or aggravation of pre-existing conditions thereto, if any, with injury to his bones, joints, nerves and nervous system, including, but not limited to: Complex Region Pain Syndrome of the left lower extremity requiring a series of nerve blocks and insertion of spinal cord pain stimulator, left foot and ankle pain with impact fracture, left

knee pain, internal injuries of an unknown nature, severe aches, pains, mental anxiety and anguish, severe shock to his entire nervous system, exacerbation of all known and unknown pre-existing medical conditions, if any, and other injuries that will represent a permanent and substantial impairment of Plaintiff's bodily functioning that substantially impairs Plaintiff's ability to perform his daily life activities, and the full extent of which is not yet known.

18. As a further result of the said accident, Plaintiff has suffered severe pain, mental anguish, humiliation, and embarrassment, and he will continue to suffer same for an indefinite period of time in the future

19. As a further result of the said accident, Plaintiff has and will probably in the future, be obliged to receive and undergo medical attention, which was or will be reasonable and necessary arising from the aforesaid accident and will otherwise incur various expenditures for the injuries he has suffered.

20. As a further result of the said accident, Plaintiff has incurred medical expenses that were reasonable, necessary, and causally related to the aforesaid accident as a result of the injuries he sustained in this accident.

21. As a further result of the said accident, Plaintiff has been unable to attend to his daily chores, duties, and occupations, and he will be unable to do so for an indefinite time in the future, all to his great financial detriment and loss.

22. As a further result of the said accident, Plaintiff has and will suffer severe loss of his earnings and/or impairment of his earning capacity.

**WHEREFORE**, Plaintiff, Richard Mather, demands judgment in his favor and against Defendants, Costco Wholesale Corporation, John Doe (1-10), Jane Doe (1-10), and XYZ Corporation (1-10), for a sum in excess of Seventy-Five Thousand Dollars (\$75,000.00), together with interest and costs of suit.

**COOPER SCHALL & LEVY**



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F: (215)246-0693

Dated: December 21, 2020